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DOCKET NO.: D0188.70125US00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Cherok et al.  
Serial No.: 09/661,623  
Confirmation No.: 8712  
Filed: September 14, 2000  
For: IMPLANTABLE PROSTHESIS  
Examiner: William H. Matthews  
Art Unit: 3738

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MAIL STOP ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

STATEMENT FILED PURSUANT TO THE DUTY OF  
DISCLOSURE UNDER 37 CFR §§1.56, 1.97 AND 1.98

Sir:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicant requests consideration of this Information Disclosure Statement.

PART I: Compliance with 37 C.F.R. §1.97

This Information Disclosure Statement has been filed before the mailing of a first Office action after the filing of a request for continued examination under 37 C.F.R. §1.114. No fee or certification is required.

PART II: Information Cited

The Applicant hereby makes of record in the above-identified application the information listed on the attached form PTO-1449 (modified PTO/SB/08). The order of presentation of the references should not be construed as an indication of the importance of the references.

The Applicant hereby makes the following additional information of record in the above-identified application.

The Applicant would like to bring to the Examiner's attention that an opposition has been filed with the European Patent Office against European Patent No. 1 317 227 (copy enclosed) which is the European counterpart to the present application. Enclosed are copies of the opposition documents which include:

- Communication of a Notice of Opposition (1 page);
- Notice of Opposition dated August 16, 2005 (4 pages);
- D1 - WO 99/06079;
- D2 – Groupe Floreane Medical Implants, Reference Document 2002-2003 (2 pages including page 7);
- D3 – Jarsaillon, P., Laparoscopic treatment of an umbilical hernia using a new composite mesh, Hernia (2000), 4 [Suppl.]: S17-S21;
- Brief Communication dated August 31, 2005 (1 page);
- Letter from Opponent dated August 16, 2005;
- D4 – Parietex Composite brochure, Sofradim International (4 pages);
- D5 – U.S. Patent No. 3,416,524 (Meier).

PART III: Explanation of Non-English Language References and Remarks Concerning Other Information Cited

The following is a concise explanation of the relevance of each non-English language reference listed on the attached form PTO-1449 (modified PTO/SB/08):

The relevance of WO 99/06079 may be gleaned from US 6,264,702 (previously cited) which is a family member thereof.

PART IV: Remarks

Documents cited anywhere in the Information Disclosure Statement are enclosed unless otherwise indicated. It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;

2. The enclosed form PTO-1449 (modified PTO/SB/08) be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;
3. The citations for the information be printed on any patent which issues from this application.

By submitting this Information Disclosure Statement, the Applicant makes no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

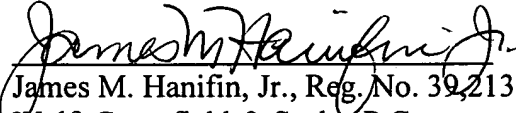
By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

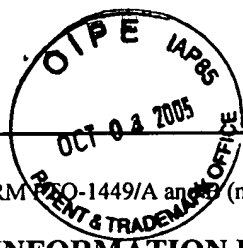
Notwithstanding any statements by the Applicant, the Examiner is urged to form his or her own conclusion regarding the relevance of the cited information.

An early and favorable action is hereby requested.

Respectfully submitted,

  
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Date: October 4, 2005  
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<b>FORM PTO-1449/A and (modified PTO/SB/08)</b> <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>			APPLICATION NO.: 09/661,623		ATTY. DOCKET NO.: D0188.70125US00		
			FILING DATE: September 14, 2000		CONFIRMATION NO.: 8712		
			APPLICANT: Darois et al.				
			GROUP ART UNIT: 3738		EXAMINER: William H. Matthews		
Sheet	1	of	1				

#### U.S. PATENT DOCUMENTS

Examiner's Initials #	Cite No.	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication or Issue of Cited Document MM-DD-YYYY
		Number	Kind Code		
		3,416,524		Meier	12-17-1968
		5,147,374		Fernandez	09-15-1992
		5,350,388		Epstein	09-27-1994
		5,379,754		Tovey et al.	01-10-1995
		5,524,633		Heaven et al.	06-11-1996

#### FOREIGN PATENT DOCUMENTS

Examiner's Initials #	Cite No.	Foreign Patent Document			Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Translation (Y/N)
		Office/ Country	Number	Kind Code			
		EP	0 537 769		Hain et al.	04-15-1998	
		WO	99/06079	A1	SOFRADIM PRODUCTION	02-11-1999	
		EP	1 317 227	B1	Cherok et al.	11-17-2004	

#### OTHER ART — NON PATENT LITERATURE DOCUMENTS

Examiner's Initials #	Cite No	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	Translation (Y/N)
		GOLDSTEIN, HAROLD, M.D., F.A.C.S.; atrium Polypropylene Mesh, "An Atlas of Hernia Repair Using an Inguinal Hernia Repair Preshape with Keyhole Slit", Atrium Medical Corporation, June 1995, 5 pp.	
		GROUPE FLOREANE MEDICAL IMPLANTS; Reference document 2002 · 2003; <a href="http://www.actusnews.fr/documents/ACTUS-0-664-041118_doc_de_ref_2002_2003.pdf">http://www.actusnews.fr/documents/ACTUS-0-664-041118_doc_de_ref_2002_2003.pdf</a>	
		JARSAILLON, P., Hernia (2000) 4 [Suppl.]: S17-S21; Case Reports: Laparoscopic treatment of an umbilical hernia using a new composite mesh; (c) Springer-Verlag 2000.	
		PARVIZ K. AMID et al., "Experimental evaluation of a new composite mesh with the selective property of incorporation to the abdominal wall without adhering to the intestines", Journal of Biomedical Materials Research, Vol. 28, 373-375 (1994).	
		SOFRADIM INTERNATIONAL, PARIETEX® COMPOSITE, company brochure; (4) pages.	

EXAMINER:	DATE CONSIDERED:
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# EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.

\*a copy of this reference is not provided as it was previously cited by or submitted to the office in a prior application, Serial No. \_\_, filed \_\_, and relied upon for an earlier filing date under 35 U.S.C. 120 (continuation, continuation-in-part, and divisional applications).

[NOTE — No copies of U.S. patents, published U.S. patent applications, or pending, unpublished patent applications stored in the USPTO's Image File Wrapper (IFW) system, are included. See 37 CFR §1.98 and 1287OG163. Copies of all other patent(s), publication(s), unpublished, pending U.S. patent applications, or other information listed are provided as required by 37 CFR §1.98 unless 1) such copies were provided in an IDS in an earlier application that complies with 37 CFR §1.98, and 2) the earlier application is relied upon for an earlier filing date under 35 U.S.C. §120.]